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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARUKI YOSHIDA and YOSITAKA ITO

Appeal 2008-2205
Application 10/779,880
Technology Center 2800

Decided: July 14, 2008

Before PETER F. KRATZ, CATHERINE Q. TIMM, and
JEFFREY T. SMITH, *Administrative Patent Judges*.
KRATZ, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 6 from the Examiner's final rejection of claims 1, 4, 5, 7-9, 12, and 13. We have jurisdiction pursuant to 35 U.S.C. § 6.

Appellants' claimed invention is directed to a female terminal having a resilient contact piece portion that extends substantially parallel to a bottom wall on either side of a first curved portion thereof. The portions of the resilient contact that extend substantially parallel to a bottom wall of the terminal insertion portion of the female terminal provide for a predetermined clearance with the bottom wall (Figs. 1 and 2). Claim 1 is illustrative and reproduced below:

1. A female terminal comprising:
 - a terminal-inserting portion having a bottom wall and a resilient contact piece portion extending rearwardly from a front end edge of the bottom wall to a free end portion thereof;
 - wherein a convex portion projecting toward said bottom wall is formed at the free end portion of said resilient contact piece portion,
 - when said resilient contact piece portion is resiliently deformed upon insertion of a male terminal, said convex portion is brought into contact with said bottom wall;
 - wherein said resilient contact piece portion includes a first curved portion by which said male terminal is clamped; and
 - wherein said resilient contact piece portion includes a beginning portion extending from said front end edge to said first curved portion and an intermediate portion extending from said first curved portion to said convex portion, that are provided substantially in parallel to said bottom wall at a predetermined clearance, so that said resilient contact piece portion extends substantially parallel to said bottom wall except for said first curved portion and said convex portion.

In addition to admitted prior art (APA) in drawing Figure 3 of the subject Patent Application, the Examiner relies on the following prior art reference as evidence in rejecting the appealed claims:

Ichida 6,851,976 B2 Feb. 8, 2005

Claims 1, 4, 5, 7-9, 12, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichida in view of APA.

We reverse the stated rejection for reasons set forth in Appellants' Brief.

The Examiner relies on items 38, 39 and 41 as shown in drawing Figures 8 and 9 of Ichida as allegedly showing a resilient contact piece having portions on either side of a curved portion that run substantially parallel to a terminal wall as required by the appealed claims (Ans. 3-4). As explained by Appellants, however, the portions of Ichida's connector terminal resilient contact piece (38, Figs 8 and 9) that the Examiner relies on for disclosing the substantially parallel portions relative to terminal wall (33) are, in fact, disclosed by Ichida to be inclined portions of item 38 that cooperate with bulge (39) to form a triangular shape (Br. 8-9; Ichida, col. 7, ll. 7-15). Thus, Appellants contend that the Examiner's obviousness rejection is in error in that it is bottomed on an erroneous interpretation of Ichida and the independent claim 1 requirement for a resilient contact piece with beginning and intermediate portions on opposite sides of a first curved portion "that are provided substantially in parallel to said bottom wall at a predetermined clearance, so that said resilient contact piece portion extends substantially parallel to said bottom wall except for said first curved portion and said convex portion." We agree with Appellants.

In proceedings before the PTO, claims in an application are to be given their broadest reasonable interpretation consistent with the specification, and that claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Sneed*, 710 F.2d 1544, 1548 (Fed. Cir. 1983). Here, it is clear that a

broadest reasonable interpretation of the claim language in question requires that a predetermined clearance is formed between substantially parallel sections of a resilient contact piece and a terminal wall whereas Ichida discloses non-substantially parallel sections on opposing sides of a bulge that form a triangular shaped resilient contact that does not furnish a predetermined clearance as would be formed between a wall and substantially parallel resilient contact portions.

We note that the Examiner does not rely on the additionally applied APA for this missing teaching from Ichida. Indeed, the APA, like Ichida, does not disclose the claimed parallel arrangement for portions of a resilient contact, as here claimed.

Rejections based on § 103(a) must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. *See In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968). On this record, we reverse the Examiner's obviousness rejection.

CONCLUSION

The Examiner's decision to reject claims 1, 4, 5, 7-9, 12, and 13 under 35 U.S.C. § 103(a) as being unpatentable over Ichida in view of APA is reversed.

REVERSED

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